

87<sup>th</sup> Legislative Session – 2012

Committee: House Judiciary

Monday, February 06, 2012

P - Present  
E - Excused  
A - Absent

Roll Call

P Abdallah  
P Boomgarden  
P Feinstein  
P Gibson  
P Hansen (Jon)  
P Killer  
P Kopp  
P Nelson (Stace)  
P Russell  
P Tornow  
P Turbiville  
P Gosch, Vice-Chair  
P Hunt, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Chairman, Representative Roger Hunt.

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 1, 2012.

Moved by: Turbiville  
Second by: Hansen (Jon)  
Action: Prevailed by voice vote.

HB 1247: revise certain provisions regarding the voting rights of persons convicted of a felony or serving time in the state penitentiary.

MOTION: REFER HB 1247 TO LOCAL GOVERNMENT

Moved by: Turbiville  
Second by: Hansen (Jon)  
Action: Prevailed by voice vote.

HB 1053: establish the hope card program relating to protection orders.

Presented by: Representative Patricia Stricherz

MOTION: TO TABLE HB 1053

Moved by: Boomgarden  
Second by: Gosch  
Action: Prevailed by roll call vote. (12-1-0-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Gibson, Hansen (Jon), Killer, Kopp, Russell, Tornow, Turbiville, Gosch, Hunt

Voting No: Nelson (Stace)

HB 1212: revise certain terms regarding tort liability.

Presented by: Representative Nick Moser (Handouts: #1)  
Proponents: Dave Tunge, Self, Yankton  
Matt Wittler, Self, Onida

MOTION: DO PASS HB 1212

Moved by: Gosch  
Second by: Gibson  
Action: Prevailed by roll call vote. (13-0-0-0)

Voting Yes: Abdallah, Boomgarden, Feinstein, Gibson, Hansen (Jon), Killer, Kopp, Nelson (Stace), Russell, Tornow, Turbiville, Gosch, Hunt

HB 1218: rescind the statute of limitations for any civil cause of action arising out of childhood sexual abuse.

Presented by: Representative Steve Hickey  
Proponents: Robert Brancatu, Self, Rapid City  
Marci A. Hamilton, Professor of Cardozo School of Law, representing Self  
Sherwyn Zephier, Self, Wagner (Handouts: #2)  
Barbara Dahlen, Self, Sisseton

Joann Braget, Self, Walhalla, ND  
Isadore Zephier, Self, Marty  
Representative Kevin Killer  
Opponents: Mike Shaw, Property Casualty Insurance Association of America  
Steve Smith, Self, Chamberlain (Handouts: #3)  
Chris Madsen, Self, Sioux Falls  
Brett Koenecke. SD State Medical Association

**MOTION:** DEFER HB 1218 TO THE 41<sup>ST</sup> LEGISLATIVE DAY

Moved by: Turbiville  
Second by: Gosch  
Action: Was not acted on.

**MOTION:** SUBSTITUTE MOTION DO PASS HB 1218

Moved by: Feinstein  
Second by: Killer  
Action: Failed by roll call vote. (5-8-0-0)

Voting Yes: Feinstein, Gibson, Killer, Nelson (Stace), Tornow

Voting No: Abdallah, Boomgarden, Hansen (Jon), Kopp, Russell, Turbiville, Gosch, Hunt

**MOTION:** SUBSTITUTE MOTION AMEND HB 1218

1218rb

On page 1 of the printed bill, delete lines 5 to 13, inclusive, and insert:

" 26-10-25. Any civil action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse shall be commenced within ~~three~~ five years of the act alleged to have caused the injury or condition, or ~~three~~ five years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by the act, whichever period expires later. However, no person who has reached the age of ~~forty~~ fifty years may recover damages from any person or entity other than the person who perpetrated the actual act of sexual abuse."

Moved by: Tornow  
Second by: Nelson (Stace)  
Action: Failed by roll call vote. (5-8-0-0)

Voting Yes: Feinstein, Gibson, Killer, Nelson (Stace), Tornow

Voting No: Abdallah, Boomgarden, Hansen (Jon), Kopp, Russell, Turbiville, Gosch, Hunt

MOTION: DEFER HB 1218 TO THE 41<sup>ST</sup> LEGISLATIVE DAY

Moved by: Turbiville

Second by: Gosch

Action: Prevailed by roll call vote. (9-4-0-0)

Voting Yes: Abdallah, Boomgarden, Hansen (Jon), Kopp, Russell, Tornow, Turbiville, Gosch, Hunt

Voting No: Feinstein, Gibson, Killer, Nelson (Stace)

HB 1204: clarify certain rules of evidence to determine the value of services for which special damages may be awarded in health care malpractice cases.

Presented by: Representative Scott Munsterman

Proponents: Ed Evans, Sanford Health, Sioux Falls

Jason Green, Rapid City Regional Hospital

Tim Dougherty, Avera Health, Sioux Falls

Brett Koenecke, SD State Medical Association

Dave Hewett, SD Association of Healthcare Organizations

Opponents: Roger Tellinghuisen, SD Trial Lawyers, Rapid City

MOTION: AMEND HB 1204

1204rc

On page 1, after line 8 of the printed bill, insert:

"

Section 2. That chapter 21-3 be amended by adding thereto a NEW SECTION to read as follows:

No health insurer is entitled to participate in any recovery of damages for health care services or treatment arising from health care malpractice on account of bodily injury or death unless and until its insured has been fully compensated as provided in § 21-3-1."

Moved by: Gosch

Second by: Gibson

Action: Failed by roll call vote. (6-7-0-0)

Voting Yes: Abdallah, Feinstein, Gibson, Killer, Gosch, Hunt

Voting No: Boomgarden, Hansen (Jon), Kopp, Nelson (Stace), Russell, Tornow, Turbiville

MOTION: AMEND HB 1204

1204rd

On page 1, line 8, of the printed bill, after "services" insert ", without disclosing the source or sources of such payments or such services,".

Moved by: Tornow  
Second by: Hansen (Jon)  
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION DEFER HB 1204 TO THE 41<sup>ST</sup> LEGISLATIVE DAY

Moved by: Turbiville  
Second by: Gosch  
Action: Prevailed by roll call vote. (8-5-0-0)

Voting Yes: Abdallah, Feinstein, Gibson, Hansen (Jon), Killer, Turbiville, Gosch, Hunt

Voting No: Boomgarden, Kopp, Nelson (Stace), Russell, Tornow

MOTION: ADJOURN

Moved by: Gosch  
Second by: Nelson (Stace)  
Action: Prevailed by voice vote.

Bonnie Fischer  
Committee Secretary

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Roger W. Hunt, Chair